IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

SECOND APPEAL NO. 500 OF 2002
(Sadashiv Parbat Kolhe .v. Yamunabai Parbat Kolhe and another)

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri A.H. Laddhad, Advocate holding for Smt. S.R. Choudhary, Advocate for the appellant.

CORAM : C.L. PANGARKAR, J.
19TH DECEMBER, 2007

Heard the learned Counsel appearing on behalf of the appellant.

This is an appeal preferred by the defendant against the decree for partition and separate possession passed by the appellate Court. The case of the appellant was that he was adopted son of Parbat Kolhe. The respondent Nos.1 and 2 are said to be the widow and daughter respectively of said Parbat Kolhe.

The learned appellate Court has rightly calculated the shares of the plaintiffs and the defendant in the suit. It was contended by Shri A.H. Laddhad, the learned Counsel for the appellant that there was no prayer for partition and separate possession yet the shares have been defined.

Be that as it may, the shares have been already

defined. It is not disputed that the appellant is the adopted son of Parbat Kolhe. He, therefore, cannot get more than 1/3rd share as his own share. The respondents have not challenged his status as an adopted son of Parbat Kolhe.

In view of this the appellant his sister are entitled to the share in his father's share and if his mother has died, he is also entitled to the share in his mother's share along with his sister – plaintiff No.2.

I do not find any substantial question of law involved in the appeal and the same is dismissed in limine.

JUDGE

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